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SIPDIS

SENSITIVE
SIPDIS

STATE FOR NEA/MAG (MHARRIS) AND EB/CIP
STATE PASS USTR (BURKHEAD)
USDOC FOR ITA/MAC/ONE (MASON), ADVOCACY CTR (REITZE), AND
CLDP (MCMANUS)
CASABLANCA FOR FCS (ORTIZ)
PARIS FOR NEA WATCHER

E.O. 12958: N/A

TAGS: ETRD ECON TS

SUBJECT: GOT INTERESTED IN ASSISTANCE WITH SERVICES AND FRANCHISING
LAW

SUMMARY

¶1. (SBU) During a December 10 meeting, Ministry of Commerce Director of Domestic Trade Mohamed Laouini told EmbOffs that the GOT has drafted a revised services law. The legislation will also address the regulation of franchises, which are currently limited in Tunisia. Laouini shared the draft law and said he was open to USG technical assistance on franchise legislation. Laouini also provided an overview of existing GOT regulations regarding franchising. End Summary.

NEW SERVICES LAW

¶2. (SBU) EconCommOff and EconCommSpecialist met with Mohamed Laouini, Director of Domestic Trade at the Ministry of Commerce, on December 10 to discuss GOT interest in franchising reform. Laouini indicated that the GOT is currently reviewing many old laws and regulations dating back to 1961. He confirmed that the GOT is preparing new legislation regulating the services sector in accordance with President Ben Ali's program for domestic trade regulation. He added that the ministry has already completed a preliminary draft of the new legislation and plans to have it in final form and approved through the legislative process for implementation before the end of 2009. This legislation will also cover the important issue of commercial franchising in Tunisia, which is currently unregulated. Laouini passed EmbOffs a copy of the draft services law, which includes several articles outlining the general terms of franchisor/franchisee relations.

Technical Assistance Opportunities

¶3. (SBU) When asked if the USG could provide technical assistance with the franchise legislation, Laouini said that the major concern of the GOT is to develop a standard commercial contract template for franchises. The GOT wants to be assured that any franchise contract will not favor the franchisor but instead will contain a balanced relationship between the franchisor and the franchisee and protect

the rights of both in the case of a dispute or conflict. Laouini said he hoped to review other countries' franchise legislation to see how this issue has been addressed elsewhere.

¶4. (SBU) Laouini, who attended the US Department of Commerce's Cairo Franchising Conference in October 2007, said he is also interested in learning about the franchise experience of other countries. EmbOffs suggested that he consider attending the April 2008 International Franchise Show in Washington D.C. where he could meet USG officials and US Franchise Association representatives. EmbOffs also mentioned the January 2008 visit of Marianne McManus from the Department of Commerce's Commercial Law Development Program and said that CLDP may be able to provide technical assistance in the field of franchising. Laouini was very interested in the International Franchise Show and was willing to meet with McManus. He said that the GOT is open to any type of training or seminars in the area of franchising.

NO EXCLUSIVITY IN TUNISIA

¶5. (SBU) Laouini said that Tunisian law currently prohibits all types of "exclusivity contracts" arguing that their prohibition increases competition within the domestic economy and gives the Tunisian consumer wider choices and lower prices. Tunisian businesses can privately arrange bilateral exclusivity contracts with an international enterprise, but these contracts have no validity in Tunisian courts.

"INDUSTRIAL" FRANCHISES

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¶6. (SBU) According to Laouini, "industrial franchising" or local production and distribution of foreign products under license to Tunisian manufacturers is currently permitted in Tunisia. Specifically, industrial franchising refers to the acquisition, by a Tunisian manufacturer (franchisee), of the right to use the trademark, brand name, and production process for a product under license. He cited the French dairy manufacturer, Sodiaal, which has granted a license for the production of its 'Candia' brand to Tunisie Lait (a local dairy producer) and the Italian tire manufacturer that has licensed its brand, 'Pirelli' to Stip (a Tunisian tire manufacturer). This kind of industrial franchising gives the franchisee the right to manufacture the licensed products in Tunisia and to set up their own distribution system and commercial stores in which to sell the final product. The primary condition for this type of franchise to exist in Tunisia is that the product must be manufactured domestically.

COMMERCIAL FRANCHISING IN TUNISIA

¶7. (SBU) Laouini explained that there are some commercial franchises that had been approved on a case by case basis. These franchises received special authorization to operate, after the benefits and positive contribution to the local economy had been ascertained. He used the example of the existence of several French ISO international certifying agencies operating in Tunisia. These agencies facilitate the rehabilitation of Tunisian companies by helping them obtain relevant ISO certifications. Laouini added that the GOT has also concluded several preferential bilateral agreements with Algeria, Libya and France allowing commercial franchises from these countries. He cited hyper-markets Carrefour and Geant as examples of French franchises that had opened under these agreements.

COMMENT

¶8. (SBU) Laouini is the first GOT official to express interest in

US-GOT cooperation on the new services and franchising law. The upcoming CLDP visit is particularly timely, as it will provide the opportunity to offer assistance in crafting the final services legislation, particularly as it relates to franchises, so that it creates a favorable legislative and regulatory environment for US franchising in Tunisia. Post will continue to encourage Laouini or other GOT representatives to attend the April 2008 International Franchising Show and meet with relevant US officials to discuss franchise and/or services legislation. End Comment.